

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA       )  
  )  
                  v.                    ) Docket No. 5:11-cr-00675-FB-15  
  )  
FRANCISCO ARROYO,                ) San Antonio, Texas  
  ) January 22, 2013  
Defendant.                         )  
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TRANSCRIPT OF REARRAIGNMENT/PLEA HEARING  
BEFORE THE HONORABLE FRED BIERY  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE GOVERNMENT:

Joey Contreras  
Retired - Assistant United States Attorney  
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FOR THE DEFENDANT:

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COURT REPORTER:

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Proceedings reported by stenotype, transcript produced by  
computer-aided transcription.

1 (11:56 a.m.)

2 THE COURT: All right. Let's -- I don't want to rush  
3 through this. But, on the other hand, Mr. Poage and Ms. Vela  
4 need a lunch break, and Mr. Miller, and maybe me. At any rate,  
5 we're here on Cause No. 11-CR-675.

6 If you'll raise your right hand, please, sir.

7 (The oath was administered)

8 THE COURT: Are you the same Francisco Arroyo,  
9 defendant number 15 in this cause, who is represented by Mr. Bo  
10 Wood?

11 THE DEFENDANT: Yes, sir. Yes, Your Honor.

12 THE COURT: Okay. We've been through this before, and  
13 so you've had enough time to think about this. And is it  
14 generally correct that you do want to go through with this  
15 signed plea agreement?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And you want Mr. Wood to continue to be  
18 your lawyer?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. Now, you're charged here in  
21 Count 1 of a second superceding indictment involving a  
22 conspiracy with other people to conduct and participate in the  
23 affairs of an enterprise through a pattern of racketeering. Do  
24 you understand that charge?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Mr. Wood, are you satisfied that  
2 Mr. Arroyo A) is competent and B) that we've gotten through  
3 whatever discussions, misunderstandings there may have been?

4 MR. WOOD: Yes to both, Judge.

5 THE COURT: And are you satisfied that you can  
6 continue to give him effective assistance of counsel?

7 MR. WOOD: Yes, sir.

8 THE COURT: And have you looked at the government's  
9 evidence, analyzed it and advised him of the strength or  
10 weakness of the government's case against him, not only in this  
11 Count 1, but the whole case, to the extent there may be other  
12 counts, the punishment possibilities in terms of whether this  
13 could have been a death penalty case in terms of him or not,  
14 and what his rights and choices are?

15 MR. WOOD: I have, Your Honor.

16 THE COURT: Now, Mr. Arroyo, if this case were to go  
17 to trial and you were to lose, just on Count 1, you could be  
18 looking at up to the rest of your natural life in prison  
19 without parole, a \$250,000 fine, a five-year period of  
20 supervision if you were able to have a sentence less than life.  
21 And during that supervision time, you would go back to prison  
22 if you violated supervision. You would also have a \$100  
23 assessment for the Victim of Crime Fund.

24 That's the most that can happen to you without the plea  
25 agreement. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: With the plea agreement, this is a case  
3 where, because of the multiple defendants and the  
4 proportionality aspect, that the government has offered and  
5 those who have accepted understand that, subject to the Court's  
6 approval -- but the Court knows of no reason why it would not  
7 approve -- that people are pleading guilty, if they do plead  
8 guilty, for a specific sentence.

9 In your case, Mr. Wood, I believe it was 20 years. Yes. I  
10 see it here now.

11 MR. WOOD: Yes, sir.

12 THE COURT: So that you -- instead of the possibility  
13 of life without parole or the possibility of a not guilty  
14 finding and no punishment, then this is a compromise between  
15 you, Mr. Arroyo, and the government at a 20-year sentence. Do  
16 you understand that to be the proposal?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And has anyone forced you, threatened you  
19 or paid you money to sign these papers or take that proposal?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: And if you do plead guilty, is it because  
22 you're hoping to get that compromise, but also because you are  
23 guilty of being involved in these various acts, including  
24 solicitation of murder, that ultimately caused the death of  
25 Priscilla Vidaaurri?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: You're guilty of that.

3 All right. And then it went on to talk about, on Page 3,  
4 the facts involved narcotic -- involving narcotics, with you  
5 involved, having to do with heroin and cocaine. Are those  
6 facts true and correct?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Now, even though you've told me those  
9 facts are true and correct, that does not make you legally  
10 guilty. You can, again, change your mind today. But today's  
11 the day to do it, not three months from now. But if you do  
12 want to change your mind, you can say "not guilty" when I ask  
13 you the question. But if you do want to go through with this,  
14 then you would answer that question "guilty."

15 Do you understand that power and those two choices that you  
16 have?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And if you do say the word "guilty," do  
19 you understand you're giving up your rights under the  
20 Constitution to have a trial by a jury, like this fellow here  
21 who's on trial now? He's exercising his right. He might win  
22 and walk out the door. He might lose. And he's on bond, and  
23 he'll go out that door perhaps and have a much longer sentence  
24 than he would if he had had a plea agreement. But, again, he's  
25 made that choice.

1           You understand that right?

2           THE DEFENDANT: Yes, Your Honor.

3           THE COURT: And the government would have to prove the  
4 charges against you beyond a reasonable doubt. You would have  
5 cross-examination of live witnesses by Mr. Wood, which is the  
6 Sixth Amendment to the Constitution. You would have the right  
7 to remain silent under the Fifth Amendment. You would have the  
8 right to appeal directly and by habeas corpus if the government  
9 did secure a verdict of guilty against you.

10          Are you voluntarily giving up all of those rights?

11          THE DEFENDANT: Yes, Your Honor.

12          THE COURT: At this time the Court makes the findings  
13 of competency, effective assistance of counsel, knowledge of  
14 the charge and punishment possibilities, factual basis to  
15 support a plea of guilty, and written and oral, competent  
16 waiver of constitutional rights.

17          Mr. Contreras, do you wish the Court to admonish further?

18          MR. CONTRERAS: No, Your Honor.

19          THE COURT: Mr. Wood?

20          MR. WOOD: No, Judge.

21          THE COURT: Mr. Arroyo, to the charge against you,  
22 sir, which alleges that you, Francisco Arroyo, within the  
23 Western District of Texas, on or about July 2nd, 2011, and  
24 other dates stated in Count 1 of a second superceding  
25 indictment against you, that you engaged in a conspiracy with

1 other people to violate federal law involving participation in  
2 the affairs of an enterprise through a pattern of racketeering,  
3 do you answer "guilty" or "not guilty" to that charge?

4 THE DEFENDANT: Guilty, Your Honor.

5 THE COURT: I accept Mr. Arroyo's plea of guilty, find  
6 him guilty of Count 1 of the second superceding indictment.  
7 And we will set the punishment date at some time in the future,  
8 Mr. Arroyo, after we decide -- or find out what Mr. Vidaurri is  
9 going to do.

10 Might he be needed for Mr. Vidaurri's trial, Mr. Contreras,  
11 if there is one, or not?

12 MR. CONTRERAS: No.

13 THE COURT: Okay. All right. And, Mr. Wood, is there  
14 any need that we need to set -- have a separate sentencing for  
15 Mr. Arroyo as compared with these other defendants that are  
16 being sentenced?

17 MR. WOOD: No, Judge. In fact, I think the preference  
18 would be he would like to be sentenced on the same day.

19 THE COURT: Well, we have different dates. I would  
20 suggest, if we can do it, to try to get all of the 20-year guys  
21 more or less together. But I don't know that that's doable.  
22 But this is already the end of January. All right. Well,  
23 we'll try for March 22nd, which is 60 days. It's kind of the  
24 normal time, except that in these cases where you've got 20  
25 defendants, it's -- sometimes we can't do them all as quickly

1 as we would like or as you-all would like. But we'll try for  
2 March the 22nd at 8:30.

3 Someone will come over and visit with you. They'll make a  
4 full presentence federal report. You and Mr. Wood will go over  
5 that together and make changes or corrections, and then we'll  
6 meet back here March 22nd or as soon as we can.

7 In the meantime, I'm remembering and recalling, Ms. Vela,  
8 Mr. Wood is going to file an invocation of Fifth Amendment  
9 right on Mr. Vaughn. So that takes care of that.

10 Does Mr. Gordon know that yet?

11 MR. WOOD: I came to tell them both. I talked to Bill  
12 and Stephen, and I'll tell them.

13 THE COURT: Okay. And then we'll deal with his other  
14 health issues when we deal with it.

15 MR. WOOD: Yes, sir.

16 THE COURT: All right. So, Mr. Contreras, anything  
17 else on this matter.

18 MR. CONTRERAS: No, Your Honor.

19 THE COURT: Mr. Wood?

20 MR. WOOD: No, sir.

21 THE COURT: Mr. Arroyo, do you have any questions?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: All right. Good luck. Thank you, sir.  
24 You may go with the marshals.

25 (12:05 p.m.)



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I certify that the foregoing is a correct transcript from  
the record of proceedings in the above-entitled matter.

Date: 3/5/2020 /s/ Chris Poage  
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